

TEXT OF REGULATIONS

CALIFORNIA CODE OF REGULATIONS Title 4, Division 15, Article 1.5 Charter School Facility Grant Program

Section 10170.1. Purpose.

This Article implements the California School Finance Authority's administration of the Charter School Facility Grant Program (Education Code section 47614.5) which provides financial assistance for charter school facilities.

Note: Authority cited: Section 47614.5, Education Code.

Reference: Section 47614.5, Education Code.

Section 10170.2. Definitions.

For the purposes of this article, the following words and phrases shall have the meaning as described below:

- (a) "Applicant" shall mean the Charter School or educational management organization applying on behalf of a Charter School for a grant under this article.
- (b) "Application" shall mean a completed Charter School Facility Grant Program Application (CSFA Form 740-01; revised July 30, 2013), incorporated herein by reference, as defined and developed by the Authority, and all other documents required to be submitted to the Authority.
- (c) "Authority" shall mean the California School Finance Authority.
- (d) "Chartering Authority" shall mean the school district, county board of education, or State Board of Education that granted a Charter School's petition to become a Charter School pursuant to Education Code section 47605.
- (e) "Charter School" shall mean a school established and operating pursuant to the Charter Schools Act of 1992 (Education Code Section 47600, et seq.). Except where the defined term First Year Charter School is specifically used, Charter School shall also be meant to include schools that otherwise meet the definition of First Year Charter School.
- (f) "Department" shall mean the California Department of Education.
- (g) "Estimated Annual Entitlement" shall mean the estimated grant amount to which a Charter School is entitled as calculated pursuant to section 10170.7 prior to the first apportionment.
- (h) "Final Fiscal Year Entitlement" shall mean the final calculated grant amount to which a Grantee is entitled based on the calculation prescribed in section 10170.8.
- (i) "First Year Charter School" shall mean a school that anticipates beginning operations as a Charter School in the Fiscal Year for which it submits an Application.
- (j) "Fiscal Year" shall mean the school year for which an Application for grant funds is submitted.
- (k) "Free or Reduced-Price Meal Eligibility" shall mean the percentage of enrolled students who are eligible for free or reduced-price meals, as reported by the Department.

- (l) "Grantee" shall mean a Charter School determined by the Authority to be eligible for a grant.
- (m) "Prior Year" shall mean the school year prior to the school year for which an Application is submitted.

Note: Authority cited: Section 47614.5, Education Code.

Reference: Sections 47614.5, 47600 et seq., 47605, and 47614.5, Education Code.

Section 10170.3. Eligible Applicant.

Any Applicant shall be eligible to apply for a grant if all of the following conditions are met:

- (a) The Application is submitted by or on behalf of a Charter School.
- (b) An approved charter has been awarded, is in place, and is current at the time of Application, or in the case of a First Year Charter School, a charter petition has been submitted for approval to the Chartering Authority and evidence, such as a copy of the charter petition, is submitted that the school anticipates beginning operations in the Fiscal Year for which an Application is submitted.
- (c) The Charter School meets one of the following criteria:
 - (1) Seventy percent (70.0%) or more of the student enrollment at the charter school site is eligible for free or reduced-price meals; or
 - (2) The charter school site for which grant funds are requested is physically located in the attendance area of a public elementary school in which seventy percent (70.0%) or more of the pupil enrollment is eligible for free or reduced-price meals and the school site gives a preference in admissions to pupils who are currently enrolled in that public elementary school and to pupils who reside in the elementary school attendance area where the charter school site is located.

Note: Authority cited: Section 47614.5, Education Code.

Reference: Section 47614.5, Education Code.

Section 10170.4. Eligible Costs.

- (a) Grant funds may be applied toward a Charter School's facilities rent or lease costs for all of the following:
 - (1) Costs associated with facility rents or leases as evidenced by an executed rental or lease agreement, consistent with generally accepted accounting standards for accounting for rent or lease costs, for Charter School facilities used principally for classroom instruction.
 - (2) Costs associated with remodeling buildings, deferred maintenance, initially installing or extending service systems and other built-in equipment, and improving sites.
 - (3) Other costs associated with rental or leased facilities, including, but not limited to, common area maintenance charges that are based on the Charter School's

usage of the facility and are limited to maintaining and repairing the facility and its common areas.

- (b) Grant funds may not be apportioned for any of the following:
 - (1) Units of average daily attendance generated through nonclassroom-based instruction as defined in Education Code section 47612.5.
 - (2) Charter Schools occupying existing school district or county office of education facilities, except that Charter Schools shall be eligible for the portions of their facilities that are not existing school district or county office of education facilities.
 - (3) Charter Schools receiving reasonably equivalent facilities from their chartering authorities pursuant to Education Code section 47614, except that Charter Schools shall be eligible for the portions of their facilities that are not reasonably equivalent facilities received from their chartering authorities.
- (c) Grant funds may not be applied toward overhead or other administrative costs of the Charter School or any other entity.
- (d) Grant funds may not be applied toward insurance, property taxes and other assessments against the property, or utility charges.
- (e) Grant funds must be expended and liquidated within the guidelines of this article and the Charter School Facility Grant Program.
- (f) No grant, whether for costs described in subdivision (a)(1), (a)(2), or a combination of both, shall exceed \$750 per unit of average daily attendance, or more than 75% of the annual rent and lease costs for the Charter School for the Fiscal Year for which the Application is submitted and an award of grant funds is made.

Note: Authority cited: Section 47614.5, Education Code.

Reference: Sections 47612.5 and 47614.5, Education Code.

Section 10170.5. Application Submission.

Applications for grant funds shall be made on the Application, and will be available as described below.

- (a) For the 2013-14 school year, Applications will be accepted until 5:00 p.m. on September 9, 2013.
- (b) For subsequent funding rounds, beginning with the 2014-15 school year, the Application will be made available by the Authority no later than April 10 of the Prior Year. For subsequent funding rounds, Applications will be accepted until 5:00 p.m. on May 10 of the Prior Year.
- (c) For any funding round, under the following circumstances, an Application may be submitted after the initial Application deadline, but in no case later than October 15 of the Fiscal Year for which the Application is submitted:
 - (1) A Charter School relocates from a facility that was ineligible for a grant award to a facility that is eligible and the Application includes a description of the change in facility circumstances justifying a late Application; or
 - (2) A First Year Charter School.

- (d) One printed Application with original signatures and one duplicate Application must be received by the Authority, during regular business hours prior to the final filing date and time. Applications shall be delivered to the Authority by mail or hand-delivery. The Authority will not accept emailed or faxed Applications. Applications received after the final filing date and time will not be accepted for review.
- (e) The Authority's review and evaluation of an Application for purposes of calculating the Estimated Annual Entitlement shall be based solely on the information contained in and submitted with the Application, and supporting information obtained directly from other state and local agencies.
- (f) Organizations operating more than one Charter School, as identified by separate CDS codes, must submit a separate Application for each Charter School with a separate CDS code for which a grant award is sought. Organizations operating more than one facility location under the same CDS code must combine all facilities operating under that CDS code in one Application.
- (g) The Authority may waive procedural defects in the submission of an Application, such as an Application filed past the deadline.

Note: Authority cited: Section 47614.5, Education Code.

Reference: Section 47614.5, Education Code.

Section 10170.6. Content of Application.

Completed Applications and all attachments shall be submitted in duplicate to the Authority and shall include all of the following items.

- (a) Application. The Application shall include identifying information and other information required by the Authority, including information regarding the Applicant or Charter School's legal status.
- (b) Copy of current charter agreement and verification of the expiration date.
- (c) Copy of the rent or lease agreement contract, or other documentation, verifying the Charter School's facilities rent or lease costs for the Fiscal Year for which a grant award is requested, and evidence that the rent or lease term matches or exceeds the anticipated grant term. If the Charter School does not yet have an executed rent or lease agreement for the Fiscal Year, the Applicant shall produce an executed lease or rental agreement for the Prior Year or other documentation sufficient to show the Charter School's actual facilities rental or lease costs for the Prior Year. If the Charter School does not have a rent or lease agreement for the Fiscal Year or Prior Year, the Applicant shall provide such other evidence to the satisfaction of the Authority, such as a pending lease agreement, that establishes the Applicant's best estimate of such costs for the Fiscal Year.
- (d) An Applicant requesting reimbursement for Charter School costs associated with remodeling buildings, deferred maintenance, initially installing or extending service systems and other built-in equipment, or improving sites shall include in its Application all of the following:
 - (1) A description of the work for which the reimbursement is requested, including how it meets one of the categories of eligible work;

- (2) A budget providing detail of the costs to be reimbursed;
- (3) Applicable contracts for work to be performed to the extent they exist at the time of the Application.
- (e) An Applicant applying for or on behalf of a First Year Charter School shall submit an Application and the following information:
 - (1) An approved charter agreement evidencing the First Year Charter School's intention of operating a Charter School during the Fiscal Year for which grant funds are requested. If an approved charter agreement is not available, the Applicant shall submit the charter petition and application and additional documentation demonstrating its intent to receive charter approval to operate a Charter School during the Fiscal Year for which grant funds are requested.
 - (2) An executed rent or lease agreement for the Fiscal Year for which grant funds are requested. If an executed rent or lease agreement is not available at the time of Application, the Applicant shall submit an estimate of rent or lease costs for the Fiscal Year.
 - (3) An estimate of enrollment by grade for the Fiscal Year.

Note: Authority cited: Section 47614.5, Education Code.

Reference: Section 47614.5, Education Code.

Section 10170.7. Estimated Annual Entitlement Calculation.

- (a) Authority staff will make an initial determination regarding each Charter School's eligibility pursuant to section 10170.3.
- (b) For each eligible Charter School, the Authority will determine the Estimated Annual Entitlement, based on \$750 per unit of average daily attendance for the Prior Year as provided by the Department, but in no case shall the Estimated Annual Entitlement be more than 75% of the Charter School's actual annual facilities rent or lease costs for the school site for the designated Fiscal Year based on an executed rental or lease agreement for the designated year or, if not yet available, on an executed rental or rental agreement for the Prior Year.
- (c) If an Applicant is unable to provide an executed rental or lease agreement for the Charter School for either the Fiscal Year or for the Prior Year, the Authority may base the Estimated Annual Entitlement on information provided by the Applicant that constitutes an estimate of the Charter School's expected facilities rent or lease costs for the Fiscal Year.
- (d) For Charter Schools that submit a late Application pursuant to section 10170.5(c), the Authority will make the Estimated Annual Entitlement calculation within 30 days of receipt of a complete Application and enrollment data from the Department.

Note: Authority cited: Section 47614.5, Education Code.

Reference: Section 47614.5, Education Code.

Section 10170.8. Final Fiscal Year Entitlement Calculation.

- (a) By the second apportionment as described in section 10170.9, Grantees shall provide final and actual rent or lease costs for the Fiscal Year.
- (b) The Authority shall obtain from the Department final average daily attendance figures and Free and Reduced-Price Meal Eligibility for each Grantee.
- (c) Based on the information provided pursuant to subdivisions (a) and (b), the Authority shall verify program eligibility and calculate each Grantee's Final Fiscal Year Entitlement, based on \$750 per unit of actual average daily attendance for the Fiscal Year, but in no case shall the Final Fiscal year Entitlement exceed 75% of the Grantee's Fiscal Year actual facilities rent or lease costs.

Note: Authority cited: Section 47614.5, Education Code.

Reference: Section 47614.5, Education Code.

Section 10170.9. Apportionment of Grant Funds.

- (a) Prior to making any awards for Fiscal Year grants, the Authority shall first determine whether any Grantees that received awards in the Prior Year are entitled to reimbursement for unreimbursed eligible costs for that year. Such costs shall be the first funding priority prior to the Authority disbursing apportionment of current Fiscal Year grants to Grantees and shall be determined by the Authority based on the Final Fiscal Year Entitlement calculation made for each Grantee for the Prior Year. Reimbursements for Prior Year costs shall be made by the Authority to Prior Year Grantees within 60 days of the Authority providing notice.
- (b) For the 2013-14 school year, the first apportionment of 50% of the Estimated Annual Entitlement, following disbursements required pursuant to subdivision (a), shall be disbursed to each eligible Grantee no later than October 15, 2013, or 105 days after enactment of the Budget Act of 2013, whichever is later.
- (c) For subsequent funding rounds, the first apportionment of 50% of the Estimated Annual Entitlement, following disbursements required pursuant to subdivision (a), shall be disbursed to each Grantee by August 31 of the Fiscal Year for which the grant is requested, or 30 days after enactment of the annual Budget Act, whichever is later.
- (d) For a Grantee that submitted a late Application pursuant to section 10170.5(c), the first appointment of 50% of the Estimated Annual Entitlement shall be made within 30 days after the Authority determines eligibility and the Estimated Annual Entitlement.
- (e) No later than March 1 of each Fiscal Year, the Authority shall provide to each Grantee a second disbursement of 75 percent of the Estimated Annual Entitlement less the initial disbursement and less any adjustments due to receipt of the executed rent or lease agreement for the designated Fiscal Year.
- (f) No later than 30 days after the end of each Fiscal Year or 30 days after receiving the data and documentation needed to compute the Charter School's total annual entitlement, whichever is later, the Authority shall provide to each Grantee a third disbursement of 100 percent of the Final Fiscal Year Entitlement less the first two disbursements and adjusted for any changes to the Free and Reduced-Price Meal Eligibility data, average daily attendance, and executed rental or leases agreements for

the designated Fiscal Year. If insufficient funds remain available from the Fiscal Year's appropriation, the Authority shall determine the pro rata share to which each Grantee is entitled and disburse such amounts to each Grantee.

- (g) If a Grantee's Final Fiscal Year Entitlement is less than the amount disbursed to the Grantee through the first two apportionments the Authority shall provide the Grantee with notice and require that the Grantee reimburse the Authority for the excess within 60 days of the Grantee's receipt of such notice.
- (h) Prior to disbursement of funds for costs associated with remodeling buildings, deferred maintenance, initially installing or extending service systems and other built-in equipment, or improving sites, the Grantee shall submit invoices, work orders, or other evidence of completed work to the Authority. Upon presentation of such evidence of actual costs incurred, such costs shall be reimbursed in the next scheduled apportionment. Such evidence shall be provided to the Authority no later than May 1 of the applicable Fiscal Year.
- (i) At any time during each Fiscal Year the Authority reserves the right to:
 - (1) adjust each Grantee's Estimated Annual Entitlement on a pro rata basis based on the number of approved Grantees, the total amount of Estimated Annual Entitlements, and the amount of funds available;
 - (2) adjust Estimated Annual Entitlements for individual Grantees based on the Authority's receipt of updated data from the Grantee or the Department; and
 - (3) if final data for Free and Reduced-Price Meal Eligibility provided by the Department establishes that the Grantee is not eligible for the program pursuant to section 10170.3(c), request reimbursement of grant funds already disbursed to the Grantee consistent with subdivision (f).

Note: Authority cited: Section 47614.5, Education Code.

Reference: Section 47614.5, Education Code.

Section 10170.10. Notification of Grantee; Appeal Process.

- (a) The Authority will provide notice to each Applicant of Authority staff's eligibility determination and Estimated Annual Entitlement calculation pursuant to section 10170.7.
- (b) An Applicant shall have 14 calendar days from receipt of the Authority's notice to request reconsideration of eligibility or the Estimated Annual Entitlement calculation by Authority staff.
- (c) Authority staff shall have 14 calendar days to review an Applicant's request for reconsideration and provide a final staff decision.
- (d) If the Applicant is unsatisfied with Authority staff's final decision, the Applicant shall have 14 calendar days following receipt of notice of the decision to notify the Authority that the Applicant wishes to appeal the matter to the Authority board.
- (e) Upon receipt of an appeal notice from an Applicant, the matter will be considered by the Authority board at the next regularly scheduled Authority meeting.
- (f) If an eligibility determination or Estimated Annual Entitlement calculation is modified by Authority staff or the Authority Board, changes in apportionments will be processed and distributed to the Applicant within 30 days.

Note: Authority cited: Section 47614.5, Education Code.

Reference: Section 47614.5, Education Code.

Section 10170.11. Obligation and Expenditure of Grant Funds.

- (a) Each Grantee shall defend, indemnify and hold harmless the Authority and the state, and all officers, trustees, agents, and employees of the same, from and against any and all claims, losses, costs, damages, or liability of any kind or nature, whether direct or indirect, arising from or relating to the grant and the project or the program.
- (b) Each Grantee shall comply with any audit provisions as may be required by the Authority and/or the State Controller.
- (c) Each Grantee shall maintain a valid charter and operate a charter school continuously throughout the Fiscal Year. The Authority reserves the right to routinely contact the Chartering Authority directly seeking written verification that the Grantee is in good standing and in compliance with the terms of its charter.
- (d) Each Grantee shall notify the Authority, within 30 days, of any material changes to the charter school's facilities, enrollment, Free or Reduced-Price Meal Eligibility, charter status, student operations, or scope of the project that occurs between the time of Application and the end of the grant period.

Note: Authority cited: Section 47614.5, Education Code.

Reference: Section 47614.5, Education Code.

Section 10170.12. Approval of Grant use Change.

The Authority may, on a case-by-case basis, consider a change in the use of the grant funds if the Grantee demonstrates that the change is consistent with the program and this Article.

Note: Authority cited: Section 47614.5, Education Code.

Reference: Section 47614.5, Education Code.

Section 10170.13. Audits.

- (a) The Authority and/or the State Controller may conduct or require periodic audits to ensure Grantees are using grant funds consistent with the requirements of the program and this article as approved. Grantees shall retain all documentation and financial data necessary to substantiate the purposes for which the grant funds were spent for a period of three years after the end of the grant period.
- (b) Grantees may be required to routinely verify continued eligibility.
- (c) The Authority reserves the right to conduct site visits to any charter school facility or project receiving a grant pursuant to this Article.

Note: Authority cited: Section 47614.5, Education Code.

Reference: Section 47614.5, Education Code.

Section 10170.14 Conflicts of Interest.

- (a) For purposes of this section, the following definitions shall apply:
 - (1) “Affiliate” shall mean a shareholder, partner, member, officer or board member of, or person who directly or indirectly controls, a Corporate Entity.
 - (2) “Corporate Entity” shall mean any type of organization or legal entity other than an individual, including a corporation, partnership, limited liability company or unincorporated association.
 - (3) “Related Party” shall mean:
 - (A) A School Official or a spouse, domestic partner, or dependent child of a School Official; or
 - (B) A Corporate Entity if a School Official or a spouse, domestic partner, or child of a School Official is an Affiliate of the Corporate Entity, except that a non-profit Corporate Entity formed exclusively for the purpose of managing or providing support to the Applicant or Charter School or to a group of related charter schools, and any direct or indirect wholly-owned subsidiary of any such Corporate Entity, shall not be considered a Related Party.
 - (C) “School Official” shall mean a board, member, officer, or employee of an Applicant or the Charter School.
- (b) Grantees must avoid actual conflicts of interest when applying for or receiving grants from the Authority.
- (c) Beginning with the 2014-15 funding round, grant funds may not be used by an Applicant or Charter School to pay for any lease or rental agreement with a Related Party, unless all of the following conditions are satisfied:
 - (1) The Related Party, and, in the case of a Corporate Entity, any School Official who is an Affiliate of the Corporate Entity, abstains from voting, or participating in the discussion of the governing board of the Charter School, regarding approval of the lease, rental agreement, or any amendment thereto;
 - (2) The Related Party, and, in the case of a Corporate Entity, any School Official who is an Affiliate of the Corporate Entity, abstains from voting, or participating in the discussion of the governing board of the Charter School, regarding the decision to apply for a grant to cover costs associated with the lease or rental agreement, as well as abstaining from participating in the Application for grant funds or administration of the Charter School’s receipt of grant funds;
 - (3) The Related Party, and, in the case of a Corporate Entity, any School Official who is an Affiliate of the Corporate Entity, discloses its interest in the lease or rental agreement to the governing board of the Charter School;
 - (4) The amount of the lease or rent is at or below market rate based on an independent appraisal paid for by the Applicant or Charter School or the governing board in approving the lease or rental agreement or amendments thereto has made a finding that the agreement is reasonable under the circumstances; and

- (5) The lease or rental agreement is not signed by the Related Party, or in the case of a Corporate Entity, by any School Official who is an Affiliate of the Corporate Entity, on behalf of the Applicant or Charter School.
- (d) Nothing in this section is intended to supercede Government Code section 1090, the Political Reform Act (commencing with Government Code section 81000), or any other conflicts of interest laws that may be applicable to the Applicant or Charter School's participation in the program.

Note: Authority cited: Section 47614.5, Education Code.

Reference: Section 47614.5, Education Code.

Section 10170.15. Funding Contingency.

- (a) Funding for this grant program in each Fiscal Year is contingent upon the appropriation of funds.
- (b) Apportionments to each Grantee will be contingent upon the Grantee's continuing eligibility to receive such apportionments.
- (c) The Authority or Authority staff may seek third party verification regarding any and all applicable costs associated with the facility/project receiving a grant pursuant to this Article.

Note: Authority cited: Section 47614.5, Education Code.

Reference: Section 47614.5, Education Code.